

Cynthia Z. Levin, Esq. (PA 27070)
Law Offices of Todd M. Friedman, P.C.
1150 First Avenue, Suite 501
King of Prussia, PA 19406
Phone: 888-595-9111 ext 618
Fax: 866 633-0228
clevin@attorneysforconsumer.com
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EVERET GRANT,

Plaintiff,

vs.

**PORTFOLIO RECOVERY
ASSOCIATES, LLC,**

Defendant.

) Case No.

)

) **COMPLAINT FOR VIOLATION
OF THE PENNSYLVANIA FAIR
CREDIT EXTENSION**

) **UNIFORMITY ACT,**

) **PENNSYLVANIA UNFAIR TRADE**

) **PRACTICES AND CONSUMER**

) **PROTECTION LAW, FEDERAL**

) **FAIR DEBT COLLECTION**

) **PRACTICES ACT, AND**

) **TELEPHONE CONSUMER**

) **PRACTICES ACT**

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Pennsylvania Fair Credit Extension Uniformity Act and Pennsylvania Unfair Trade Practices and Consumer Protection Law. Furthermore, Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), which prohibit debt collectors from

1 engaging in abusive, deceptive, and unfair practices. Ancillary to the claims
2 above, Plaintiff further alleges claims for Defendant's violations of the Telephone
3 Consumer Protection Act., 47 U.S.C. §227, *et seq.* (hereinafter "TCPA").
4

5 **II. JURISDICTION**

6
7 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

8 **III. PARTIES**

9
10 3. Plaintiff, Everet Grant ("Plaintiff"), is a natural person residing in
11 Lycoming county in the state of Pennsylvania, and is a "consumer" as defined by
12 the FDCPA, 15 U.S.C. §1692a(3).
13

14 4. At all relevant times herein, Defendant, Portfolio Recovery
15 Associates, LLC, ("Defendant") was a company engaged, by use of the mails and
16 telephone, in the business of collecting a debt from Plaintiff which qualifies as a
17 "debt," as defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to
18 collect debts alleged to be due another, and therefore is a "debt collector" as
19 defined by the FDCPA, 15 U.S.C. §1692a(6).
20
21

22 **IV. FACTUAL ALLEGATIONS**

23
24 5. At various and multiple times prior to the filing of the instant
25 complaint, including within the one year preceding the filing of this complaint,
26 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
27
28

1 6. Defendant contacted Plaintiff at (347) 296-5528, in connection with
2 an attempt to collect an alleged debt.
3

4 7. Defendant contacted Plaintiff at (347) 296-5528, with such a
5 frequency as to constitute harassment under the circumstances.
6

7 8. Defendant contacted Plaintiff at (347) 296-5528, at times and places
8 that were known to be inconvenient.
9

10 9. Defendant contacted Plaintiff at (347) 296-5528, Plaintiff's cellular
11 phone, with automated and pre-recorded messages causing Plaintiff to incur
12 charges for each and every call.
13

14 **COUNT I: VIOLATION OF THE PENNSYLVANIA FAIR CREDIT**
15 **EXTENSION UNIFORMITY ACT**

16 10. Plaintiff hereby incorporates all facts and allegations set forth in this
17 Complaint by reference as if fully set forth at length herein.
18

19 11. The Pennsylvania Fair Credit Extension Uniformity Act
20 ("PaFCEUA") 73 P.S. § 2270.1 *et seq.* prohibits harassing and deceptive conduct
21 by creditors while engaging in the practice of collecting a debt from consumers.
22

23 12. Section 2270.5 of the PaFCEUA allows consumers to recover
24 damages against creditors who engage in unfair and deceptive debt collection
25 practices under the Pennsylvania Unfair Trade Practices and Consumer Protection
26 Law ("PUTCPL").
27

28 13. Plaintiff is a "consumer" as defined by § 2270.3 of the PaFCEUA.

1 14. Defendant is a “creditor” as defined by § 2270.3 of the PaFCEUA.

2 15. Defendant’s conduct violated the PaFCEUA in multiple ways,
3
4 including but not limited to:

5 a) Communicating with Plaintiff at times or places which
6 were known or should have been known to be
7 inconvenient for Plaintiff;

8 b) Causing Plaintiff’s telephone to ring repeatedly or
9 continuously with intent to harass, annoy or abuse
10 Plaintiff.

11 16. As a result of the above violations of the PaFCEUA Plaintiff
12 suffered and continues to suffer injury to Plaintiff’s feelings, personal humiliation,
13 embarrassment, mental anguish and emotional distress, and Defendant is liable to
14 Plaintiff for Plaintiff’s actual damages, statutory damages, and costs and
15 attorney’s fees.
16

17
18 **COUNT II: VIOLATION OF THE PENNSYLVANIA UNFAIR TRADE**
19 **PRACTICES AND CONSUMER PROTECTION LAW**

20 17. Plaintiff hereby incorporates all facts and allegations set forth in this
21 Complaint by reference as if fully set forth at length herein.
22

23 18. Defendant’s conduct as set forth above constitutes an unfair or
24 deceptive practice within the meaning of the Pennsylvania Unfair Trade Practices
25 and Consumer Protection Law, 73 P.S. §201-1, et seq.
26
27
28

1 19. Defendant's violation of the Pennsylvania Unfair Trade Practices
2 and Consumer Protection law has caused Plaintiff to suffer the damage set forth
3 hereinabove.
4

5 20. Plaintiff is entitled to triple damages and attorneys' fees as a result of
6 Defendant's conduct, pursuant to 73 P.S. §201-9.2.
7

8 **COUNT III: VIOLATION OF FAIR DEBT**
9 **COLLECTION PRACTICES ACT**
10

11 21. Plaintiff reincorporates by reference all of the preceding paragraphs.
12

13 22. Defendant's conduct violated the FDCPA in multiple ways,
14 including but not limited to:

15 a) Communicating with Plaintiff at times or places which
16 were known or should have been known to be
17 inconvenient for Plaintiff (§1692c(a)(1));

18 b) Causing Plaintiff's telephone to ring repeatedly or
19 continuously with intent to harass, annoy or abuse
20 Plaintiff (§1692d(5));

21 23. As a result of the above violations of the FDCPA Plaintiff suffered
22 and continues to suffer injury to Plaintiff's feelings, personal humiliation,
23 embarrassment, mental anguish and emotional distress, and Defendant is liable to
24 Plaintiff for Plaintiff's actual damages, statutory damages, and costs and
25 attorney's fees.
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

COUNT IV: VIOLATION OF TELEPHONE CONSUMER PROTECTION ACT

24. Plaintiff reincorporates by reference all of the preceding paragraphs.

25. Defendant's conduct violated the TCPA in multiple ways, including but not limited to:

Using any automatic telephone dialing system or an artificial or pre-recorded voice to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call (47 USC §227(b)(A)(iii)).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the TCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 10th day of February, 2012.

By: /s Cynthia Levin
Cynthia Levin, Esq. (PA 27070)
Law Offices of Todd M. Friedman, P.C.
1150 First Avenue, Suite 501
King of Prussia, PA 19406
Phone: 888-595-9111 ext 618
Fax: 866 633-0228
clevin@attorneysforconsumer.com
Attorney for Plaintiff